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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/385,414	08/30/1999	JAMES B. POAGE	7099.1186	9114

7590 07/24/2003

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EXAMINER

COLON, CATHERINE M

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 07/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/385,414

Applicant(s)

POAGE ET AL.

Examiner

C. Michelle Colon

Art Unit

3623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 23 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 16, 17, 19, 20.Claim(s) rejected: 1-15, 18 and 21-24.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

ADVISORY ACTION

This is an Advisory Action in response to the After Final Response submitted on June 23, 2003. The Request for Reconsideration has been considered, but does not place the application in condition for allowance. In the Request for Reconsideration, Applicant argues a specific definition for the term, "hit rate." While Applicant provides ample evidence supporting his definition for "hit rate," this definition was not introduced prior to the Final Office Action. In fact, this definition is not the same definition that was argued prior to the Final Office Action. See page 5 of the Request for Reconsideration dated October 24, 2002, where "hit rate" is defined to be how often an initiative is selected from a database. This is a different definition than the one currently being argued by Applicant. Finally, none of the definitions argued for "hit rate" has support in the Specification. Accordingly, it is appropriate for Examiner to apply a definition that is reasonable and that would be understood by one of ordinary skill in the art, which she believes she has done in the current art rejection.

Therefore, the argument provided for "hit rate" does not place the application in condition for allowance. Claims 16, 17, 19 and 20 remain objected to. Claims 1-15, 18 and 21-24 remain rejected. Examiner suggests an amendment to the claims that explicitly recites the intended meaning for "hit rate."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 703-605-

4251. The Examiner can normally be reached Monday – Thursday from 8:30am to 5:30pm and every other Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 703-305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

703-305-7687 [Official Communications; including After Final
communications labeled "Box AF"]

703-746-7202 [For status inquiries, draft communication, labeled
"Proposed" or "Draft"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA 7th floor receptionist.


cmc

July 22, 2003